



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/821,615

03/29/2001

Ervin Dennis Walter

1517.002

4103

23598 7590 03/20/2009

BOYLE FREDRICKSON S.C.  
840 North Plankinton Avenue  
MILWAUKEE, WI 53203

EXAMINER

RAPILLO, KRISTINE K

ART UNIT

PAPER NUMBER

3626

NOTIFICATION DATE

DELIVERY MODE

03/20/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/821,615	<b>Applicant(s)</b> WALTER ET AL.	
	<b>Examiner</b> KRISTINE K. RAPILLO	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 2/3/2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 71-88 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 71-88 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/25/2002; 2/7/2002; 6/17/2002; 2/3/2003;</u>                 | 6) <input type="checkbox"/> Other: _____                          |
| <u>2/18/2004; 10/26/2004; 2/14/2005; 4/7/2005.</u>                                     |   |



Art Unit: 3626

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the Request for Continued Examination filed February 3, 2009. Claims 1 and 77 are amended. Claims 83 – 88 are new. Claims 1 – 70 were previously cancelled. Claims 71 – 88 are presented for examination.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 3, 2009 has been entered.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Figure 5 (500); Figure 7 (700); Figure 8 (800); and, Figure 9 (900). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figure 4 (434); Figure 5 (520 and 526); Figure 6 (602); Figure 7 (724 and 726); Figure 8 (820); and, Figure 9 (916 and 918).

Art Unit: 3626

5. The drawings are objected to because reference character 814 is used twice in Figure 8. The specification (paragraph [0037]) correctly references reference character 812 for the step of "Are any appointments available within the selected range?", however, there appears to be a typographical error in the drawings.

***Claim Objections***

6. The claim objections to claims 71 and 77 are hereby withdrawn based upon the amendment submitted February 3, 2009.

***Claim Rejections - 35 USC § 112***

7. The 35 U.S.C. 112, second paragraph rejections of claims 71 – 82 are hereby withdrawn based upon the amendment submitted February 3, 2008.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 71 – 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hacker (U.S. Patent Number 6,988,075) in view of Goldenberg (U.S. Publication Number 2002/0065682 A1).

In regard to claim 71 (Currently Amended), Hacker teaches a computer system allowing patient-sourced data to be added to a clinical medical record system comprising:

a computer-implemented clinical medical record database holding clinical information created by and accessible to healthcare providers (column 7, lines 22 – 24) where Hacker discloses a medical information system that stores electronic medical records which are accessible to both patients and physicians;

Art Unit: 3626

a personal health web page stored on a computer-readable medium configured to allow selection of an anonymous mode or a registered mode wherein the registered mode requires machine authentication of the identity of a user and the anonymous mode does not require authentication of the identity of the user (column 8, lines 46 – 59) where Hacker discloses alphanumeric identification identifier and pass phrase to enter the system. Hacker fails to disclose an anonymous mode, which does not require authentication. This feature is disclosed by Goldenberg and is described below;

a computer-implemented Web portal accepting patient-sourced medical data from the patient (column 8, lines 41 – 59) and operating in one of:

(2) a registered mode in which in which the patient is provided with access to the patient-sourced medical data and data of the clinical medical record when the patient has registered and thus is fully identified (column 8, lines 55 – 57).

Hacker fails to teach an anonymous mode, which does not require authentication and a computer implemented Web portal accepting patient sourced medical data from the patient and operating in (1) an anonymous mode in which the patient is provided with access to the patient-sourced medical data but not data of the clinical medical record when the patient is not fully identified.

Goldenberg teaches an anonymous mode, which does not require authentication (paragraphs [0043] and [0044]) and a computer implemented Web portal operating in (1) an anonymous mode in which the patient is provided with access to the patient-sourced medical data but not data of the clinical medical record when the patient is not fully identified (paragraphs [0043] and [0044]) where a non-subscriber to the system can register as a guest, in which levels of access are granted based on the status of the guest.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an anonymous mode, which does not require authentication and a computer implemented Web portal operating in (1) an anonymous mode in which the patient is provided with access to the patient-sourced medical data but not data of the clinical medical record when the patient is not fully identified as taught by Goldenberg, within the system of Hacker, with the motivation of

Art Unit: 3626

providing patients and physicians a tool to review and update medical records via browser software connected to a network (abstract).

In regard to claim 72 (Previously Presented), Hacker and Goldenberg teach the computer system of claim 71. Hacker further teaches a system wherein the registered mode allows integrated access of patient-sourced data and data of the clinical medical record by the patient without re-entry of information by the patient (column 8, lines 46 – 67) where Hacker discloses access to a patient medical record which includes links to other sections (i.e. different physicians) without re-entering identification and password.

In regard to claim 73 (Previously Presented), Hacker and Goldenberg teaches the computer system of claim 71. Hacker further teaches a system wherein the Web portal in the registered mode allows healthcare professionals to view selected patient-sourced data flagged by the patient (column 7, line 63 through column 8, line 7).

In regard to claim 74 (Previously Presented), Hacker and Goldenberg teaches the computer system of claim 71. Hacker further teaches a system wherein in the Web portal in the anonymous mode allows the patient to undertake electronic communication with healthcare professionals (column 10, lines 4 – 33). However, Hacker does not explicitly teach a system which includes an anonymous mode.

Goldenberg teaches a system including an anonymous mode (paragraphs [0043] and [0044]).

The motivation to combine the teachings of Hacker and Goldenberg is discussed in the rejection of claim 71, and incorporated herein.

In regard to claim 75 (Previously Presented), Hacker and Goldenberg teaches the computer system of claim 71. Goldenberg further teaches a system wherein the patient provides a user name and identifying information that is anonymous in nature in the anonymous mode (paragraphs [0043] and [0044]) where a user can be an authorized guest.

Art Unit: 3626

The motivation to combine the teachings of Hacker and Goldenberg is discussed in the rejection of claim 71, and incorporated herein.

In regard to claim 76 (Previously Presented), Hacker and Goldenberg teaches the computer system of claim 71. Hacker further teaches a system wherein the Web portal in the anonymous mode does not permit the patient to make appointments with the healthcare professionals and the Web portal in the registered mode does allow the patient to make appointments with health care professionals (column 6, lines 38 – 40; column 8, lines 25 – 34; and, column 10, lines 4 – 18). Hacker teaches a system for scheduling an appointment via e-mail; because Hackers invention requires registered users to submit a identifier and password, it is inherent that a registered user can schedule appointments with a health care provider.

Method and system claims 77 - 88 repeat the subject matter of system claims 71 - 76. As the underlying processes of claims 71 - 76 have been shown to be fully disclosed by the teachings of Hacker and Goldenberg in the above rejections of claims 71 - 76; as such, these limitations (77 - 88) are rejected for the same reasons given above for claims 71 - 76 and incorporated herein.

### ***Response to Arguments***

10. Applicant's arguments filed February 3, 2009 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed February 3, 2009.

In response to the Applicant's arguments regarding claims 71 - 82, it is respectfully submitted that the Examiner has applied new prior art; as such, Applicant's remarks with the regard to the application of Hacker and Ilse et al. are moot with the application of the Goldenberg reference.



Art Unit: 3626

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ilsen et al. (U.S. Patent Number 6,757,898) teaches an electronic provider-patient interface for providing automated electronic communication between at least one health care provider and a plurality of users of the health care provider.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/C. Luke Gilligan/  
Supervisory Patent Examiner, Art Unit 3626